

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BENJAMIN JAMES O'DONNELL,

Petitioner,

v.

Case No. 2:18-cv-13995
Hon. Sean F. Cox

JOE BARRETT,

Respondent.

**ORDER TRANSFERRING SUCCESSIVE PETITION FOR WRIT OF
HABEAS CORPUS TO THE UNITED STATES COURT OF APPEALS FOR
THE SIXTH CIRCUIT**

Michigan prisoner Benjamin James O'Donnell, ("Petitioner"), filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254. Petitioner is being held in custody at a Michigan correctional facility as a result of his 1995 Calhoun Circuit Court conviction for armed robbery, assault with intent to murder, carrying a concealed weapon, and commission of a felony with a firearm.

Petitioner previously filed a federal habeas petition challenging his conviction that was denied on the merits. *O'Donnell v. Barrett*, No. 5:03-cv-72, 2007 U.S. Dist. LEXIS 99088 (W.D. Mich. January 8, 2007).

Federal district courts lack jurisdiction to consider successive habeas petitions absent preauthorization from the court of appeals. *Franklin v. Jenkins*, 839 F.3d 465, 473 (6th Cir. 2016) (citing 28 U.S.C. § 2244(b)(3)); *Felker v. Turpin*, 518 U.S. 651, 664 (1996).

When a habeas petitioner files a second or successive petition for habeas corpus

relief in the district court without preauthorization, the district court must transfer the case to the court of appeals. See 28 U.S.C. § 1631; *Sims v. Terbush*, 111 F.3d 45, 47 (6th Cir. 1997).

The instant case is Petitioner's second attempt to seek federal habeas relief. Accordingly, the Clerk of the Court shall transfer this case to the United States Court of Appeals for the Sixth Circuit pursuant to 28 U.S.C. § 1631 for a determination of whether Petitioner may file a successive petition.

SO ORDERED.

Dated: January 11, 2019

s/ Sean F. Cox

Sean F. Cox

United States District Judge

I hereby certify that on January 11, 2019, the document above was served on counsel of record via electronic means and upon Benjamin James O'Donnell via First Class Mail at the address below:

Benjamin James O'Donnell
241058
COOPER STREET CORRECTIONAL FACILITY
3100 COOPER STREET
JACKSON, MI 49201

s/J. McCoy

Case Manager